

APPROVAL OF A PRELIMINARY PLANNED UNIT DEVELOPMENT

9. As previously mentioned, The City approved a conditional use to establish a Planned Unit Development for the Subject Property pursuant to the PUD Ordinance (the “PUD”).

10. Here, a planned unit development is required to establish a site plan for the residential development and to approve both the conditional use for attached single-family dwellings and for deviations from the Code as more specifically detailed herein.

11. The planned unit development meets the standards set forth in the Code as follows:

- a. The design of the planned unit development presents an innovative and creative approach to the development of land and living environments.*

The proposed development is designed and configured to provide distinct neighborhoods of housing options, which will serve a broad pool of potential buyers and help to diversify the City’s housing stock. The Estates will comprise of slightly larger homes on slightly larger lots. The Townhomes will serve the needs of first-time homebuyers and empty nesters and Petitioner is cognizant of the needs of those empty nesters by including first-floor master bedrooms on the end units. The Meadows will address the same demographic of first-time home buyers and empty nesters in that it will comprise of ranch models with first-floor master suites, while also providing the first-time home buyer with a single-family home option at a slightly lower price point. While meeting the needs of a variety of homebuyers, the proposed development is designed to provide a smooth transition from the townhomes and single-family detached homes to the east of the Subject

Property. Moreover, the proposed development has been thoughtfully designed so that the exterior of the buildings will fit seamlessly into the community, which will enhance the surrounding environment and provide a cohesive development with extensive open space and recreational opportunities.

While Naper Commons will be a unique enclave of residential development due to the location of the Property, Petitioner has designed the community with a combination of sidewalks and pedestrian paths to create an integrated and walkable community with usable and accessible common open space. The heart of the common open space is the linear park that is centrally located within the subdivision. The street network of the community is designed around this linear park, with one-way streets and design features that spill into the roadway and are specifically intended to signal a “special” area where traffic should move more slowly. The design intent is to create a safe zone where parents can trust their children to walk to the park and play communally. To this end, the park is intentionally sized to provide sufficient active play areas, but to be intimate and accessible for young children. The park space is lined by homes with one and two-story front porches, allowing residents to “monitor” the park space and help establish a safe environment within their neighborhood. The park is accessible to all residents via either sidewalk or pedestrian paths. The same sidewalk and pedestrian path system is intended to incorporate connections into the adjacent forest preserve trail system. The open space, proximity to the Forest Preserve, linear park, and pathway system creates an extensive combination of recreational opportunities for all residents of this unique and cohesive community. In addition, Petitioner is incorporating a 25’ landscape easement located between the homes adjacent to the forest preserve. This landscape easement will be natively planted to provide proper separation, transition, and protection to the forest preserve. In addition, Petitioner is incorporating a 55’ buffer between the homes adjacent

to the Fairmeadow Subdivision, which will provide adequate separation and further delineate the boundaries between the two residential subdivisions.

b. The planned unit development meets the requirements and standards of the planned unit development regulations.

The PUD will allow the Petitioner to utilize the Subject Property to an extent that is compatible with the surrounding environment and to its highest and best use. The planned unit development meets the requirements and standards of the planned unit development regulations as follows:

- (i) Ownership and Control: The proposed development meets the ownership and control requirements. Petitioner is the contract purchaser of the Property.
- (ii) Area, Lot Width, Yard, and Height/Bulk Requirements: The configuration of the PUD provides for a cohesive development and does not lend itself to a separate calculation of lot area between the single-family attached and single-family detached units. The total lot area of the proposed development is 1,332,320 square feet. Utilizing the minimum lot area for a single-detached dwelling is 6,000 square feet while the minimum lot area for a single-family attached dwelling is 4,000 square feet. Applying these requirements to the proposed unit count for Naper Commons (161 detached units and 66 attached units), the total area required on the Property is 1,230,000 square feet. By this measurement, we are exceeding the Code required lot area, thereby creating a less dense community than would be otherwise required under the Code.

Petitioner proposes deviations only for yard requirements. Specifically, Petitioner proposes to modify the following standards: (i) minimum side yard setback of 16 feet total for 2 side yards with each side a minimum of 6 feet; (ii) minimum front yard setback of 25 feet; and (iii) a deviation from Section 6-2-3:5.3 in the Code to permit an encroachment into the required 5' side yard.

A. Deviations from the front yard and side yard setback requirements in the R2 Zoning District meet the requirements and standards for granting a Deviation under a PUD as follows:

1. Whether the requested deviation would undermine the intent and purpose of the underlying zoning district.

Here, Petitioner has intentionally reduced the space allotted to private yards in favor of common open space and communal amenities as reflected in the lot area calculation noted above. The standard configuration provides for a 20' front yard setback and Petitioner is proposing 25' on lots located on a curve, which is necessary to get sufficient lot width at the front setback line. Said configuration results in a more creative design providing for a more intimate neighborhood in conjunction with the predominant use of front porches throughout, which is an integral feature to our proposed design and which we believe will encourage interaction between neighbors.

All of the homes within the Meadows will have front porches and each home will range between one and two-story porch designs.

The 20' front yard setback does not take the measurement of the front porches into consideration because they are considered permitted encroachments under the Code because the porches will not exceed the 5' permitted encroachment amount. The 20' setback is requested for the reasons specifically set forth herein and since the front porch will be a permitted encroachment under the Code, it should not be included in the setback measurement/calculation. The relief as it relates to the front yard setback will provide a more intimate neighborhood focusing on interaction between neighbors and will encourage the residents to use the one and two-story front porches in addition to the communal spaces the development has to offer.

With respect to the deviation request for the side yards, the side yards serve no practical purpose other than as a transitional space between front and rear yards. A 5' side yard can serve that same practical function of transitioning between yards same as a minimum 6' side yard. Under the Petitioner's proposal, the ranch style homes within the Meadows series will have a minimum 5' side yard. This deviation will not apply to all elevations within the Meadows series of homes and will only be applicable to the ranch model. In addition, the Estates will have a minimum 7' side yard, but will have a combined 14' side yard setback, so Petitioner accordingly requests a side yard setback deviation for the Estates

series as well. With the exception of the eaves on the ranch style homes, there will be no encroachments into these required side yards because the air conditioner units and window wells will be located in the rear of the homes. Accordingly, the side yards will only consist of passable open space and the additional space gained on each side yard from the deviation is better allotted to the residential dwelling unit, or to common areas to enhance the urban nature of the development without negatively impacting the purpose of the underlying zoning requirements.

2. Whether the requested deviation would be a detriment to the provision of municipal services and infrastructure.

The municipal services and infrastructure to be incorporated into the proposed community are depicted on the engineering plans submitted herewith. All necessary improvements will be designed and installed in accordance with the City's design standards and the requested deviations will have no impact on municipal services and infrastructure.

3. Whether the requested deviation would contribute a planned unit development which offers a superior level of design, amenity enhancement, or environmental benefit; or would enhance community vitality through the inclusion of attainable or barrier free housing.

A planned unit development is intended to provide flexibility in the stringent design metrics of the zoning code in exchange for amenity enhancement, environmental benefit, and superior design. Here, Petitioner's design incorporates a unique linear park that

incorporates a higher level of design and improvement that helps establish the character of the open-space centric development. In exchange for this type of improvement and for substantial exceedance of lot area metrics, Petitioner seeks minor deviations to adjust strict zoning code setbacks. The deviations will contribute to a unique development and will allow Petitioner to focus on large front porches that are one and two-story designs and outdoor recreation and amenity opportunities for future residents under an open-space centric concept. Granting the requested deviations from the minimum front and side yard setback requirements will permit larger communal and open spaces throughout the community, such as the proposed linear park, which will offer outdoor recreational opportunities unique to the proposed development and thereby enhancing the community at large.

B. Deviation from Section 6-2-3:5.3 in the Code to permit homes to encroach into the required side yard meets the requirements and standards for granting a Deviation under a PUD as follows:

1. Whether the requested deviation would undermine the intent and purpose of the underlying zoning district.

Under the Code, no encroachment can be located above a 5-foot interior side yard drainage or utility easement from the ground to the sky. As depicted on the elevations, the eaves on the ranch-style homes will technically encroach over the required 5-foot interior side yard easement. However, no easement will be

negatively impacted by the eaves as they will be located above the easement as an extension of the roof. Technically, the Petitioner could eliminate the eaves, but this would drastically change the architectural character of the home designs. The eaves add depth to the home and create shadow lines for the residences and you can see the difference between a home with eaves and a home without eaves on Figure 1.

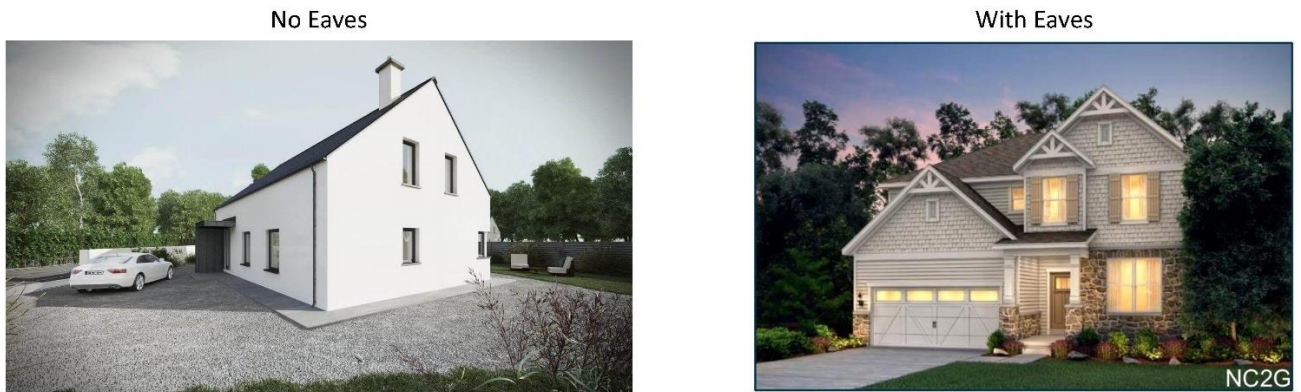


Figure 1

As you can see, the deviation will permit the homes to maintain a higher level of architecturally pleasing characters. Not only do eaves provide a superior level of architectural features, but they also serve an important purpose by keeping water away from the walls and window systems of the homes. Although it is possible to eliminate the eaves to eradicate this deviation request, doing so would not be in the best interest of the future residents of Naper Commons. Therefore, the incorporation of the eaves will provide a superior level of design and quality to the homes, which does not

negatively impact the purpose of the underlying zoning requirements.

2. Whether the requested deviation would be a detriment to the provision of municipal services and infrastructure.

The municipal services and infrastructure to be incorporated into the proposed community are depicted on the engineering plans submitted herewith. All necessary improvements will be designed and installed in accordance with the City's design standards and the requested deviation being located above a utility easement as a slight extension of the roof on the homes will have no impact on municipal services and infrastructure.

3. Whether the requested deviation would contribute a planned unit development which offers a superior level of design, amenity enhancement, or environmental benefit; or would enhance community vitality through the inclusion of attainable or barrier free housing.

The requested deviation will only apply to a certain number of homes. The Meadows homes will be situated on 51' wide lots and the homes will range from 37' to 40' wide. The 40' wide homes will require the requested deviation because the eaves will ultimately result in 42' wide homes if included in the calculation. This situation results in only 9' for a combined total of side yards on each of these lots and will require a 6" encroachment on each side yard with this specific lot and home configuration. Under the Code, encroachments are permitted in the required yards so long as it does not exceed 6 inches, which is the exact encroachment Petitioner is

requesting. The deviation is only required for said encroachment due to the location of the eaves on these homes extending over and above the 5' side yard utility easement. Petitioner could eliminate the eaves from the homes, but the eaves offer a superior level of design to the development and creates a more aesthetically pleasing architectural product than what would be provided had we eliminated the eaves as depicted on Figure 1.

- (iii) Common Open Space: Approximately 36% of the Subject Property will be dedicated to common open space.
- (iv) Landscaping, Screening, and Tree Preservation: A landscape plan has been submitted in compliance with the City's requirements for landscaping and screening upon development of the Property.
- (v) Lighting: The proposed development complies with the City's exterior lighting regulations.
- (vi) Pedestrian and Bicycle Circulation: The provisions pertaining to Pedestrian and Bicycle Circulation will be met and exceeded.
- (vii) Relationship to Adjoining Land: The Property is very uniquely positioned between the Danada Forest Preserve, the Nokia Campus, City of Naperville townhomes and County residential. These disparate uses do not easily blend together, but Petitioner has mixed-residential plan to create appropriate transitions between land uses while addressing the needs of modern homebuyers. Specifically, Petitioner is incorporating a split rail fence, which will delineate a 25' landscape easement located across the rear

of the residential lots immediately adjacent to the Danada Forest Preserve. This landscape easement will be natively planted with native grasses, which will provide a natural transition to the forest preserve and encourage pollutant filtration. In addition, Petitioner is incorporating another split rail fence which will delineate a 55' buffer located in the rear of the residential lots immediately adjacent to the Fairmeadow Subdivision to provide additional separation and landscape enhancements between the two communities.

- (viii) Density Bonuses: No Density bonuses are requested.
- (ix) Park and School Sites: Park and School donations will be required as part of this development. The Petitioner will be dedicating approximately 2.06 acres to the Park District for a park site and the remaining requirement will be satisfied by improvements to the park parcel and/or by cash contribution to be paid at building permit. School donation will be provided as cash in lieu of a school site and will be paid on a pro-rata basis at the time of building permit.
- (x) Public Improvements: Naper Commons will be constructed with public right-of-way to and through the subdivision. This will require the improvement of East Lucent Lane which was originally designed and constructed as a private road integral to the Nokia Campus. Petitioner is committed to working with staff and improving East Lucent Lane generally consistent with City design standards. Other utility service necessary for

the service of the subdivision will be constructed by Petitioner consistent with the City's design standards.

- c. *The physical design of the planned unit development efficiently utilizes the land and adequately provides for transportation and public facilities while preserving the natural features of the site.*

The Property is uniquely positioned with the Danada Forest Preserve being located around three sides of the Property. Petitioner has embraced the adjacent open space which will be utilized to create premium lots around the perimeter of the subdivision and will be activated with a proposed trail connection along the west property line. Petitioner has recognized sensitive ecological areas and avoided impacts accordingly, particularly where impacts could extend into the adjacent Forest Preserve property. Petitioner hired V3 Companies to prepare a Wetland Delineation which has been submitted with this zoning application and outlines the strategy for preserving natural resources. Internally, Petitioner has focused on pedestrian connections and creating a walkable community with the linear park as a central gathering space. Naper Commons far exceeds applicable Code required open space metrics with approximately 36% of the Property allocated to open space purposes. This is further reflected in the lot area calculations, whereby Petitioner is providing over 12,000 square feet of lot area per dwelling unit, two or three times the applicable Code requirement.

The Property is also situated within the City's technology corridor along Warrenville Road and Naperville Road, which is in close proximity to the I-88 interchange making the Subject Property a desirable location for daily commuters. Primary ingress/egress will occur via the lighted intersection at East Lucent Lane and Naperville Road. Secondary access is provided via cross-access easement over the private roadway known as West Lucent Lane. At the request of City Staff, Petitioner is also constructing a cross access at 39th Street in the Fairmeadow

Subdivision. This access point was planned as part of the initial development of Fairmeadow and is appropriately activated with the creation of public right-of-way for East Lucent Lane. While development traffic is not likely to utilize this cross access point, it will provide residents of Fairmeadow with access to the lighted intersection of East Lucent Lane and Naperville Road thereby creating a safer means of ingress/egress during peak traffic hours.

d. Open Space, outdoor common area, and recreational facilities are provided.

As outlined above, ample open space and outdoor common areas will be provided as part of Naper Commons. The design of the community indicates approximately 36% of the Subject Property will be utilized for open space including a 2.06-acre linear park site to be dedicated to the Park District. The proposed park will provide an urban feel and offer passive and active recreational options for all Naperville residents ranging from outdoor movie night abilities, pergolas with swing benches, to pickleball, a neighborhood playground, and a basketball court. Petitioner also incorporated sidewalks and a pedestrian path system with a proposed connection to the trails in the Danada Forest Preserve.

e. The modifications in design standards from the subdivision control regulations and the waivers in bulk regulations from the zoning regulations fulfill the intent of those regulations.

Petitioner requests deviations from the following regulations in the R2 zoning district: (i) minimum side yard setback of 16 feet total for 2 side yards with each side a minimum of 6 feet; (ii) minimum front yard setback of 25 feet; and (iii) deviation from section 6-2-3:5.3 to permit an encroachment above the required 5' interior side yard easement. The requested deviations meet the standards for granting a deviation under a PUD as previously stated herein. Petitioner also requests a deviation from the subdivision regulations to permit an increase in the "bounce"

permitted between the normal water level and the high water level for the detention basins located in Outlot H. The deviation meets the standards for granting a deviation under a PUD as follows:

1. Whether the requested deviation would undermine the intent and purpose of the underlying zoning district; and

The deviation would not undermine the intent and purpose of the applicable zoning district or the underlying subdivision regulations. The proposed variance does not impact the volume or release rate of stormwater detention which will be provided as part of the project and which will comply with the DuPage County Stormwater Ordinance. Accordingly, there is no negative impact to surrounding property owners associated with the function of stormwater management. The proposed variance will allow the Naper Commons stormwater basin to mimic the fluctuation between the normal-water-level and the high-water-level of the adjacent stormwater detention basin located in the Danada Townhomes subdivision. Currently, the Danada Townhomes stormwater basins overflows onto the Property, so this overflow detention is being accommodated in the design of the new stormwater basins for Naper Commons. The volume of overflow detention being accommodated in the Naper Commons stormwater facilities on Outlot H is equal to the difference between the Code allowable bounce and the proposed variance. The normal water condition of the proposed basins in Outlot H will otherwise comply with applicable subdivision regulations and Naperville's Design Manual For Public Improvements.

2. Whether the requested deviation would be a detriment to the provision of municipal services and infrastructure; and

The requested deviation would not be a detriment to the provision of municipal services and infrastructure. The proposed deviation relates exclusively to private stormwater detention facilities that will be owned and maintained by the homeowners association at Naper Commons. The deviation will not impact public infrastructure or the City's provision of utility services. A

similar condition exists within the adjacent Danada Townhome community where the “bounce” in the existing detention basin is 8.7’, which is greater than the proposed variance requested for the Property. The Stormwater Report for the Danada Townhomes shows that the existing basin diverts water onto the Property between the 10-year and 100-year event, in effect utilizing a portion of the Property to accommodate stormwater detention for their development. Petitioner is not objecting to the existing condition, but requests a variance in order to accommodate the difference between what is required for the proposed development and what is being accommodated based on existing conditions. The stormwater required for the proposed development could be accommodated, without variance, within the footprint of the proposed stormwater basins.

3. Whether the requested deviation would contribute a planned unit development which offers a superior level of design, amenity enhancement, or environmental benefit; or would enhance the community vitality through the inclusion of attainable or barrier free housing.

The proposed variance is necessary to facilitate development of the uniquely configured property adjacent to Lucent Lane while accommodating existing detention from Danada Townhomes.

The Stormwater Report for the Danada Townhomes shows that the existing basin diverts water onto the Property between the 10-year and 100-year event, in effect utilizing a portion of the Property to accommodate stormwater detention for the off-site development. This is a unique condition, particularly in light of there being no easements which reflect any right to utilize a portion of the Property for stormwater detention. While Petitioner does not object to accommodating the offsite storage in its new stormwater basins, Petitioner seeks to provide that storage in a manner that doesn’t unduly burden the manner in which development of the Property can occur. Accordingly, Petitioner seeks a variance to increase the bounce to accommodate the off-site stormwater detention being accommodated from the Danada Townhomes subdivision.

Absent that off-site stormwater detention, Petitioner could accommodate the stormwater detention required for the development of the Property within the footprint of the proposed detention basins located on Outlot H.

f. The planned unit development is compatible with the adjacent properties and nearby land uses.

The Property is very uniquely positioned between the Danada Forest Preserve, the Nokia Campus, City of Naperville townhomes and County residential. These disparate uses do not easily blend together, but Petitioner has mixed-residential plan to create appropriate transitions between land uses while addressing the needs of modern homebuyers.

g. The planned unit development fulfills the objectives of the comprehensive plan and planning policies of the City.

The Subject Property falls within the City's East Sector Plan Update ("Comp Plan"), which designates the Subject Property for Office, Research and Development. It is important to note the Comp Plan was approved 22 years ago in 1998. Since then, many of the market demands concerning land use and real estate in the area have drastically shifted and the City recognized this by recently rezoning the Subject Property for residential use (R2 PUD) in April of 2020. Specifically, the real estate market has largely shifted its housing needs from that of a traditional single-family home, to needing a variety of housing options to cater to all home buyers in any stage of life. Specifically, we are seeing a larger demand for a townhome product to cater to a millennial purchasing their first home as well as the empty-nester who is looking to downsize from their traditional single-family home. In addition, Petitioner will incorporate two different styles of ranch homes geared towards the "move-in" buyers fleeing the City and looking to purchase their first home, as well as the "move-down" buyers in the nearby area. These homes will cater towards the aging homebuyer's needs without them taking the leap into an age-restricted

community and will do so by focusing on first floor living and smaller yards yielding less maintenance obligations. All of that being said, Petitioner seeks to develop the Subject Property for residential use reflecting the City's intentions for the Subject Property when it rezoned the Subject Property to R2 PUD in April 2020.